IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 314 of 2000

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NANAKRAM HIRANAND RUPANI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 314 of 2000

MR BS PATEL for Petitioner No. 1

MR HL JANI, PUBLIC PROSECUTOR for Respondent No. 1

MS MOHINI BHAVSAR FOR MR BG JANI for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 24/12/2001

ORAL JUDGEMENT

#. Heard the learned advocates.

#. This Revision Application under Section 397 read with Section 401 CrPC has been preferred against the judgment and order dated 21st June, 2000 passed by the learned Additional Sessions Judge, Vadodara in Criminal Revision Application No.238/99.

#. The petitioner before this Court is the father of the respondent no.2. The petitioner had moved Criminal Application No.457/97 against the respondent no.2 for maintenance under Section 125 CrPC in the Court of Judicial Magistrate First Class, Vadodara. It was the case of the petitioner that of his four sons, the respondent no.2 had neglected to maintain the petitioner. The petitioner was, on account of his advanced age and ailment, unable to maintain himself. Therefore, the application. The said application was contested by the respondent no.2. According to him, the petitioner had other three sons who were residing with him and were financially very well-off. The petitioner did not need any maintenance from the respondent no.2. The respondent no.2 had meagre income, from which he had to maintain his family and to spend for a separate residence. Considering the evidence on record, the learned Magistrate was of the view that the petitioner was entitled to maintenance from the respondent no.2, his son. She, therefore, awarded a monthly maintenance of Rs.375=00 to the petitioner. Feeling aggrieved, the respondent no.2 preferred the above Criminal Revision Application No.238/99 in the Court of the Additional Sessions Judge, Vadodara. The learned Additional Sessions Judge believed that the income of the respondent no.2 was around Rs.3,000=00 a month. However, considering the rent of the residential house and the liability to maintain his family, learned Judge was pleased to reduce the maintenance awarded to the petitioner to that of Rs.250=00 a month. Feeling aggrieved, the petitioner has preferred the present Revision Application.

#. It is not disputed that the respondent no.2 is obliged to maintain his father, the petitioner. However, it is also not disputed that the father i.e. the petitioner has a residential house of his own and two of his sons are residing with him. Both the said sons have their own business and are financially well-off. It is also not disputed that both the said sons do maintain the petitioner. Besides, there is nothing on the record to ascertain the income of the respondent no.2. In the circumstances, the inference drawn by the courts below as regards the income of the respondent no.2 need not be interfered with. If the said sum i.e. Rs.3,000=00 is

believed to be the monthly income of the respondent no.2, the learned Judge can not be said to have erred in awarding the monthly maintenance of Rs.250=00 to the petitioner instead of Rs.375=00 awarded by the learned Magistrate. In my view, therefore, the order impugned does not warrant interference.

#. The Revision Application is dismissed. Rule is discharged.

24th December, 2001. (Ms. R.M. Doshit, J.)

/sakkaf